



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MAP/151464

PRELIMINARY RECITALS

Pursuant to a petition filed June 04, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Disability Determination Bureau in regard to Medical Assistance, a hearing was held on September 12, 2013, at Sheboygan, Wisconsin.

The issue for determination is whether the agency properly determined the Petitioner is not disabled and is not eligible for the Medicaid Purchase Plan.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: No Appearance

Disability Determination Bureau
722 Williamson St.
Madison, WI 53703

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Sheboygan County.
2. Petitioner is 33 years old. Her diagnoses include right foot bone dystrophy, chronic pain, depression, anxiety, reflex sympathetic dystrophy syndrome right foot, right foot nerve damage,

right foot bone damage, right foot and leg circulation problems, pain in left hip, leg and lower back, endometriosis and pelvic pain. She has a history of multiple foot and toe surgeries.

3. On December 18, 2012, the Petitioner filed a Medicaid Disability Application (MADA) for the Medicaid Purchase Plan (MAPP). By letter dated May 7, 2013, the agency found the Petitioner was not disabled. Petitioner sought reconsideration but the Bureau affirmed its determination.
4. On December 31, 2012, the Petitioner filed an application for Social Security disability benefits and Supplemental Security Income (SSI) with the Social Security Administration (SSA). Those benefits were denied after reconsideration on August 14, 2013 with a finding of no disability.
5. The Petitioner does not allege any new medical impairment, nor any worsening of the impairments considered in the Social Security decision.

DISCUSSION

Generally, individuals who are working cannot be found to be disabled or receive disability-related benefits, including medical assistance. The Medicaid Purchase Plan (MAPP) allows an exception to this. The Petitioner applied for MA under this program. However, she is not working, so her benefits will be determined the same as those of anyone else seeking MA based upon a disability.

A person between ages 18 and 65, with no minor children, must be blind or disabled to be eligible for MA. A finding of disability must be in accordance with federal social security/SSI standards. See Wis. Stat. § 49.47(4)(a)4. Because the standards are the same, a finding of no disability for Social Security/SSI purposes made within 12 months of the MA application is binding on a State Medicaid (MA) agency. Exceptions may occur only if certain conditions exist such as allegations of a different disabling condition or changes in the previously considered conditions. None of the exceptions apply here. See 42 C.F.R. § 435.541(a); see also U.S. Department of Health and Human Services commentary, 54 Fed. Reg. 236 (1989).

Because Petitioner was denied Social Security/SSI following a finding of no disability on August 14, 2013, I must conclude that Petitioner is not eligible for MA or MAPP.

CONCLUSIONS OF LAW

Petitioner is not disabled as that term is used for MA purposes pursuant to Wis. Stat. § 49.47(4).

THEREFORE, it is

ORDERED

That the petition be, and hereby is, dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

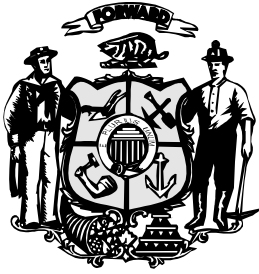
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 24th day of October, 2013

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on October 24, 2013.

Sheboygan County Department of Human Services
Division of Health Care Access and Accountability